

810-3-61-.04 Receipt, Maintenance and Disbursement of Scholarship Funds by Scholarship Granting Organizations (SGOs). **(NEW RULE)**

(1) Scope. Act 2013-64, as amended by Act 2013-265, provides for the granting of scholarships by SGOs under certain circumstances. This rule prescribes accountability requirements for making scholarship grants.

(2) The SGO must maintain separate accounts for all scholarship donations, including any interest or other income on the scholarship funds. The scholarship fund must not be comingled with any other funds, and may only be used for making actual scholarship grants and for paying allowable non-scholarship expenditures, as described in paragraph 3, below.

(3) An SGO may accept and separately account for donations which do not entitle the donor to tax credits under the scholarship program, if such donations are not a violation of its by-laws and other applicable laws and regulations. The SGO may use any interest or other investment income derived from non-scholarship funds for non-scholarship purposes.

(4) At least 95% of revenue from scholarship donations and all interest and investment income attributable to scholarship funds must be used for educational scholarships. Therefore, the SGO may use no more than 5% of the amount of its scholarship donations for purposes other than making scholarship grants. The 5% maximum will be calculated for each calendar year, using the amount of scholarship donations received during the year. Regardless of whether an SGO has used less than the allowable amount of scholarship funds for non-scholarship purposes during any prior year, the SGO may not make non-scholarship expenditures exceeding 5% of scholarship donations in any given year.

(5) The SGO must make reasonable efforts to make scholarship grants with scholarship funds. The SGO will be deemed to have made reasonable efforts to make scholarship grants if scholarship grants are made during a given year at least equal to the unexpended scholarship funds on hand as of the beginning of the year.

(6) For all scholarship donations received, the SGO must notify donors to enter the donation into the Department's system for tracking scholarship donations and credits, which must be done pursuant to Rule 810-3-61-.02.

(7) The Department will make available an electronic receipt system for qualified SGO to enter and verify actual scholarship donations received. No tax credits will be allowed to donors, if the SGO receiving the donation fails to enter the donation amounts into the system, and to provide all required donor identifying information by the required date.

(8) The SGO must enter all donations received and all required donor identifying information into the Department's system within 30 days of receipt of the

donations, in order to validate the donor's donation and to create the electronic receipt. The donor will receive the electronic receipt form through the Department's system, enabling the donor to use the allowable credit on his/her tax return.

(9) The portion of the \$25 million in available tax credits which has been reserved for a particular donation may be released and made available to other donors if the SGO fails to provide validating information by the required date.

(10) In order to ensure that the percentage of its expenditures on educational scholarships given for low-income eligible students is no less than the percentage of low-income eligible students in the county where the SGO expends the majority of its educational scholarships, the SGO must:

(a) Determine the percentage of low-income eligible students in the county where the SGO expends the majority of its educational scholarships each year.

(b) Receive and maintain, for each scholarship recipient who is reported to the Department as a low-income eligible student, documentation of the amount of the student's family income for the calendar year proceeding the year in which the educational scholarship is granted. Any student for whom the family income documentation is not maintained will not be considered a low-income eligible student for purposes of determining the percentage of scholarship grants awarded to low-income eligible students.

Author: Curtis Stewart

Authority: Sections 40-2A-7(a)(5) and 16-16D-1, Code of Alabama 1975

History: